

THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, N.Y. 10007

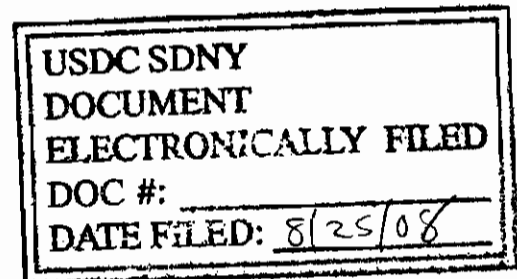
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August 20, 2008

BY HAND

Judge Denny Chin
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007



Re: Raymond Fontanez v. City of New York, et al., 08 CV 6712 (DC)

Dear Judge Chin:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and attorney for defendants City of New York and Commissioner Raymond W. Kelly. I am writing with the consent of plaintiff's counsel, Michael Hueston, Esq., to respectfully request a sixty (60) day enlargement of time from August 21, 2008, until October 20, 2008, within which this office may answer or otherwise respond to the complaint. This is the first request made by this office for an enlargement of time in this action.

The complaint alleges, inter alia, that plaintiff Raymond Fontanez was falsely arrested/imprisoned and subjected to excessive force and malicious prosecution. In addition to the City of New York, plaintiff also purports to name Police Officer Diamond as a defendant. Before this office can adequately respond to the complaint, we will need to conduct an investigation into the facts of the case. The enlargement of time will afford us the opportunity to investigate the matter.

Moreover, the enlargement will allow us to ascertain whether the individually named defendant has been served.¹ If service has been properly effectuated then, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individually named defendant. The named defendant must then decide whether he/she wishes to be represented by this office. If so, we

¹ Although this office does not currently represent Officer Diamond and assuming he was properly served, this office also respectfully requests this extension on his behalf in order to prevent his defenses from being jeopardized while representational issues are being resolved.

must obtain his/her written authorization. Only after this procedure has been followed can we determine how to proceed in this case. See *Mercurio v. The City of New York et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. The City of New York et al.*, 64 N.Y.2d 800, 486 N.Y.S. 2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

In view of the foregoing, it is respectfully requested that the Court grant the within request extending the City's time to answer or otherwise respond to the complaint until October 20, 2008.


Thank you for your consideration in this regard.

Respectfully submitted,


Meghan A. Cavalieri (MC 6758)
Assistant Corporation Counsel
Special Federal Litigation Division

cc: VIA FACSIMILE
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Approved.
SO ORDERED,


WSDJ
8/25/08